

Amendments to the Drawings

Please amend FIG. 1 as indicated on the accompanying replacement sheet for FIG. 1. A copy of original FIG. 1, marked in red ink to show the changes made to FIG. 1 by this Amendment, is also enclosed.

REMARKS

This Amendment is filed in response to the Office Action dated July 14, 2004. By this Amendment, claims 27, 31, and 32 are amended and claim 30 is canceled, leaving claims 23-26, 28, 29, 33-35, and 45-48 unchanged (claims 1-22 and 36-44 were canceled in an earlier Amendment).

The Applicant has identified a number of errors in the originally-filed specification, and submits amendments to the specification as set forth above in order to correct these errors. Also, the Applicant hereby submits drawing corrections to FIG. 1 in light of several reference numbering errors made in FIG. 1.

On page 2 of the Office Action, claims 23-35 and 45-48 are rejected under the judicially created doctrine of double patenting over claims 1, 2, 7, 9, and 12 of United States Patent Number 6,659,295 issued to De Land, et al. (to which the present application claims priority). The Applicant submits herewith a Terminal Disclaimer for the present patent application and a check for the requisite Terminal Disclaimer fee under 37 CFR 1.20(d). Accordingly, the Applicant respectfully requests that the double patenting rejection to claims 23-35 and 45-48 be withdrawn.

On pages 2 and 3 of the Office Action, claims 23, 25-29, 35, 45, and 46 are rejected under 35 U.S.C. §102(b), as being anticipated by United States Patent Number 5,611,442 issued to Howard.

Claim 23 of the present application calls for:

A shelving/display system for use as a component of a wall, the system comprising:

generally horizontal top and bottom tracks secured within the wall, each track having a top surface;

an elongate member fixedly secured to the top surface of each track, a portion of the elongate member extending away from the track and a series of apertures spaced along the portion of the elongate member, the apertures accessible from the exterior of the wall; and

generally vertical support/display members adapted for attachment in the apertures in the elongate members, each support/display member having a front surface and a series of apertures spaced along the surface.

In the Office Action, and with reference to FIG. 2 of Howard, the “generally horizontal top and bottom tracks” claimed in claim 23 are compared to the carrier rails 35, 36 of the Howard device. Also, the “elongate member” claimed in claim 23 appears to be compared to one of the back supports 52 of the Howard system (this comparison is not specifically referenced in the Office Action). However, if this correspondence of elements is employed, the Howard system has no “generally vertical support/display members adapted for attachment in the apertures in the elongate members” as also claimed in claim 23. Howard fails to disclose any other structure that can reasonably correspond to the elements claimed in claim 23 of the present application.

Accordingly, and for other reasons not discussed herein, the Applicant respectfully submits that claim 23 is novel and patentable over the stocking system disclosed by Howard. The Applicant therefore respectfully requests withdrawal of the 35 U.S.C. §102(b) rejection of claim 23 based upon Howard.

Claims 25 and 26 are each dependent upon independent claim 23, and are therefore allowable based upon claim 23 and upon other features and elements claimed in claims 25 and 26 but not discussed herein.

Claim 27 of the present application is amended, and calls for (amendment marks not shown):

A shelving/display system comprising:
generally horizontal top and bottom tracks secured in a spaced-apart relationship, each track having a front surface and a series of apertures spaced along the front surface;
at least two generally vertical support/display members adapted for engagement in the track apertures;
a pair of brackets associated with the at least one support/display member, each bracket adapted to removably engage the track apertures to removably secure the support/display members to the tracks; and
an intermediate horizontal track extending between and secured to two adjacent support/display members of the at least two generally vertical support/display members, the intermediate track having a top surface and a series of apertures spaced along the top surface;
wherein the at least one support/display member has a front surface and a series of apertures along the front surface.

Claim 27 is hereby amended to generally include the subject matter of dependent claim 30, which stands rejected under 35 U.S.C. §103(a) as being unpatentable over Howard in view of United States Patent Number 6,115,978 issued to Bastain et al.

Amended claim 27 calls for vertical support/display members each removably engagable into apertures in generally horizontal top and bottom tracks via a pair of brackets, and an intermediate horizontal track extending between and secured to adjacent support/display members.

In contrast, the intermediate cross beam 19b of Bastain et al. extends between primary vertical columns 13, 14 of a partition 10 – a structure and application completely different from the shelving/display system of amended claim 27. These primary vertical columns 13, 14 are not intended or adapted for attachment to generally horizontal top and bottom shelving/display system tracks having front apertures as claimed in amended claim 27. Instead, the primary vertical columns 13, 14 and the intermediate cross beam 19b form the internal structural components of a wall.

Furthermore, the function and purpose of the intermediate cross beam 19b of Bastain is significantly different than any of the structure attached to the gondola rack unit 11 disclosed by Howard. For example, the intermediate cross beam 19b of Bastain functions as an internal skeletal component of a wall adapted for passage of utility lines, while the frame members 33 (supports 51, 52, 53, 54) of the Howard system define an adjustable shelf rack that can be secured to a gondola rack. Indeed, the only similarity between the application of the intermediate cross beam 19b disclosed by Bastain and the application in the Howard system proposed by the Examiner is the existence of two vertical members. Accordingly, the Applicant respectfully submits that no teaching, suggestion, or motivation exists in Bastain, Howard, or their combination to install an intermediate horizontal track on the vertical supports 51 or 52 of Howard, and that one skilled in the art would not be motivated to do so without the assistance of hind sight reconstruction.

Therefore, and for other reasons not discussed herein, the Applicant respectfully submits that claim 27 is novel and patentable over the stocking system disclosed by Howard, and the combined teachings of Howard and Bastain. The Applicant respectfully requests withdrawal of the 35 U.S.C. §102(b) rejection of claim 27 based upon Howard.

Claims 28, 29, and 35 are each dependent upon independent claim 27, and are therefore allowable based upon claim 27 and upon other features and elements claimed in claims 28, 29, and 35 but not discussed herein.

Claim 45 of the present application calls for:

A shelving/display system comprising:

generally horizontal top and bottom tracks secured in a spaced-apart relationship, each track having a front surface and a rear surface;

a first generally vertical support/display member secured to the tracks adjacent the front surfaces of the tracks;

a second generally vertical support/display member secured to the tracks adjacent the rear surfaces of the tracks and opposite the first member;

wherein each member has a surface directed outwardly from the tracks and defining a series of spaced apertures.

As discussed on page 2 of the Office Action, the “generally horizontal top and bottom tracks” claimed in claim 45 are compared to the carrier rails 35, 36 of the Howard device, and the first and second generally vertical support/display members claimed in claim 45 are compared to the back supports 52 of the Howard device. However, the back supports 52 of the Howard device are not “secured to the tracks adjacent the front . . . [and] rear surfaces of the tracks” as claimed in claim 45, and are instead both secured to the front surfaces of the carrier rails 35, 36. Also, Howard fails to disclose such members (on front and rear track surfaces) having apertures facing outwardly from the tracks. In addition, the Applicant respectfully submits that no other structure of Howard can reasonably correspond to elements claimed in claim 45 of the present application.

Accordingly, and for other reasons not discussed herein, claim 45 is novel and patentable over the stocking system disclosed by Howard. The Applicant therefore respectfully requests withdrawal of the 35 U.S.C. §102(b) rejection of claim 45 based upon Howard.

Claim 46 is dependent upon independent claim 45, and is therefore allowable based upon claim 45 and upon other features and elements claimed in claim 46 but not discussed herein.

On pages 3 and 4 of the Office Action, claims 24, 47, and 48 are rejected under 35 U.S.C. §103(a) as being unpatentable over Howard in view of United States Patent Number 5,439,123 issued to Nook. Also on pages 3 and 4 of the Office Action, claim 31 is rejected under 35 U.S.C. §103(a) as being unpatentable over Howard in view of Bastain et al. Finally, on pages 3-5 of the Office Action, claims 32, 33, and 34 are rejected under 35 U.S.C. §103(a) as being unpatentable over Howard in view of Bastain, and further in view of United States Patent Number 5,870,867 issued to Mitchell.

Claims 24, 31-34, and 47-48 are each ultimately dependent upon claims 23, 27, and 45, respectively, and are therefore allowable based upon claims 23, 27, and 45 and upon other features and elements claimed in claim 24, 31-34, and 47-48 but not discussed herein.

In view of the amendments and remarks presented herein, it is respectfully submitted that the claims as amended are in condition for allowance. The Applicant requests that the Examiner telephone the attorneys of record in the event a telephone discussion would be helpful in advancing the prosecution of the present application.

Respectfully submitted,



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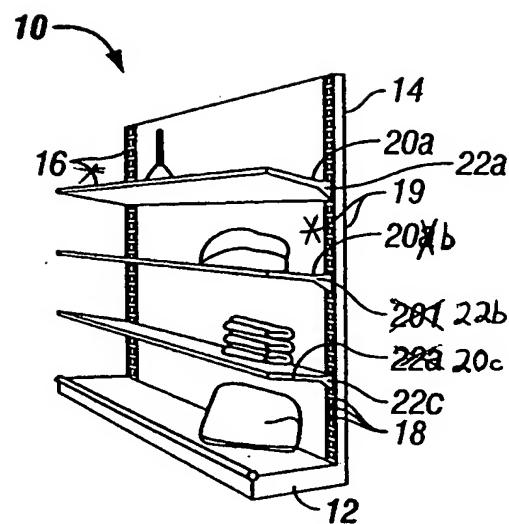


FIG. 1
(Prior Art)

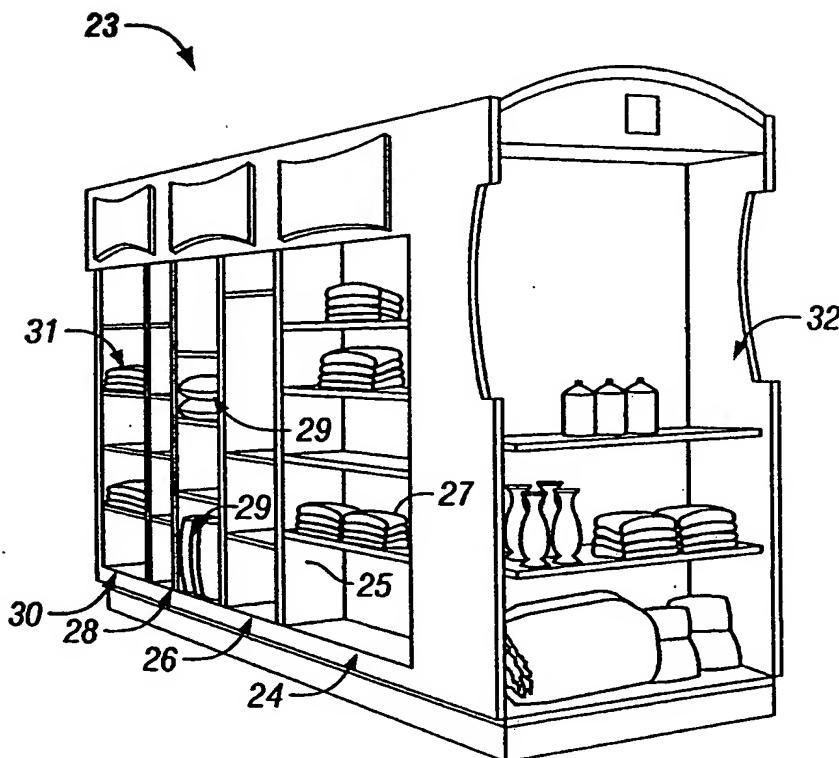


FIG. 2a